

**Office of Chief Counsel
Internal Revenue Service
memorandum**

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date: March 22, 2010

to: Carol Campbell, Division Counsel
(CC:WI)

from: Michael J. Montemurro
Chief, Branch 4
Office of Associate Chief Counsel
(Income Tax & Accounting)

subject: Energy Star Appliance Rebate Program

This Chief Counsel Advice addresses an issue under your jurisdiction. This advice may not be used or cited as precedent.

As part of the Energy Policy Act of 2005, Congress established the State energy efficient appliance rebate program to provide incentives for residential consumers to purchase energy efficient appliances. Pub. L. No. 109-58; 119 Stat. 617; 42 U.S.C. § 15821. Under the program, the Secretary of the Department of Energy (DOE) allocates funds to an eligible State's energy office if the State meets certain requirements including establishing a "State energy efficient appliance rebate program to provide rebates to residential consumers for the purchase of residential Energy Star products, or products with improved energy efficiency in cold climates, to replace used appliances of the same type." See 42 U.S.C. § 15821(b). Under 42 U.S.C. § 15821(e) the State energy office in determining the amount of a rebate ("Energy Star rebate") must consider certain factors including— (i) the difference between the cost of the residential Energy Star product or product with improved energy efficiency in a cold climate and the cost of a similar appliance that is not a residential Energy Star product or product with improved energy efficiency in a cold climate and (ii) the amount of any Federal or State tax incentive for the purchase of a residential Energy Star product or product with improved energy efficiency in a cold climate.

The American Recovery and Reinvestment Act of 2009 ("ARRA") appropriated \$300 million to DOE for the Energy Star rebate program. Title IV of Division A of ARRA, Pub. L. No. 111-5, 123 Stat. 115, 138; H. R. Conf. Rep. No. 111-16 at 427 (2009). ARRA was a direct response to the economic crisis, designed, in part, to preserve and create

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jobs, promote economic recovery, and invest in environmental protection and other infrastructure that will provide long-term economic benefits. ARRA directs the President and heads of federal departments and agencies to commence expenditures and activities as quickly as possible consistent with prudent management. See § 3 of ARRA, 123 Stat. at 115-116.

Under these facts, the Internal Revenue Service will treat payments to consumers funded by the \$300,000,000 ARRA appropriation (ARRA Energy Star rebates) as reductions in the purchase price of the purchased product rather than income. Consequently, consumers must reduce the adjusted basis of property acquired with an ARRA Energy Star rebate by its amount and must not treat that amount as an expenditure in determining any federal income tax deduction or credit. In addition, States and other payors of ARRA Energy Star rebates are not required to report such payments on Forms 1099.

This writing may contain privileged information. Any unauthorized disclosure of this writing may undermine our ability to protect the privileged information. If disclosure is determined to be necessary, please contact this office for our views. We understand you will share this advice with Operating Division field personnel.

Please call Frank W. Dunham III at (202) 622-4920 if you have any further questions.